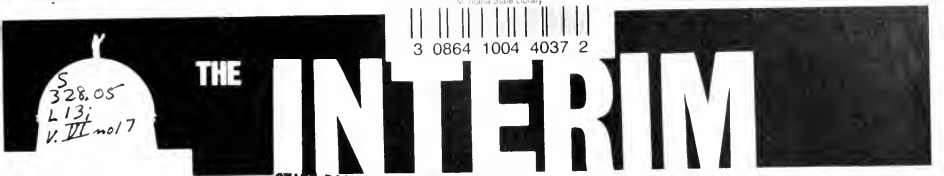


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# A REPORT OF INTERIM ACTIVITY . . . MONTANA LEGISLATIVE COUNCIL . . . HELENA

October 1988

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Vol. VI No. 17

## Legislative Council

### *Pre-session Caucus Planned Nov. 19*

At its meeting Sept. 23, the Legislative Council in accordance with discussions with the four likely deans of the respective party caucuses, recommended setting the pre-session caucus for Saturday, Nov. 19. Recently, it has been customary for all four caucuses to be held at the Colonial Inn. Since the meeting, it has been learned that the Colonial is booked at the time of the caucuses. Alternate locations are being explored.

### *Bill Draft Requests Coming In*

The Council was informed that 79 bill draft requests, from both interim committees and individual legislators, had been received through Sept. 23. Since the meeting, additional requests brought the total to 83 as of Sept. 27. The council also reviewed a new format for draft bills that is prepared through a computer application program written by staff attorney Lee Heiman. The new format will allow legislators to see a draft in typewritten form as soon as the drafter has finished preliminary work on the draft. This should help legislators review the bill and suggest changes before the final copy is presented. The draft is amply marked as a draft and looks different from the final bill in many ways. This should prevent any confusion between drafts and bills that are ready to introduce.

### *Bids Asked on Fax Machine*

A request for bids for a facsimile machine to be used by the Legislature was authorized although a final decision as to whether to purchase or lease a machine or to do without a machine was left to joint legislative administration and leadership decisions following the elections.

### *Salute to Schools Project*

Rita Blouke, co-chair with Sen. Joe Mazurek of the Salute to Schools, explained that project of the Helena '89ers to celebrate the Montana Statehood centennial is intended to salute the schools in each of the 56 counties on one day of the session. In addition, instructional and trip planning aids will be

provided to schools studying the legislative process and visiting Helena. The program should provide lasting benefits to Montana schools by assisting in organizing worthwhile trips to the Capital City during legislative sessions.

### *Other Topics Discussed*

At the September meeting, the Council also:

- heard a report from Rep. Marks on recent agency reorganization discussions and approved continued work by the Executive Director on this issue;
- approved staff time to work with Rep. Menahan and Sen. Lynch to prepare a plan to conduct a study of mental health services in Montana for which NCSL support has been obtained. Work this fall will involve preparing a study plan and a resolution calling for a study of the issue. NCSL will work during the session to gather background information that will be reported to the appropriate committee following the session; and
- discussed the advisability of trying to form a committee or other entity to bring the disparate proposals on the school funding issue together prior to the session. Decided to

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Montana Legislative Council

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wait until the November meeting to discuss this further since other legislative committees already assigned to address the issue are still working on it.

### *Next Meeting Set Nov. 14*

The next meeting of the Legislative Council is scheduled for Monday, Nov. 14, in the Capitol.

### *Telefax Bill Requests Receivable by Library*

Legislators may now send bill draft requests to the Legislative Council library via any telefax machine. Telefax machines have been identified in 41 cities and towns in Montana and most are available for public use. If you want to know the location of a machine in your area, call the Legislative Council Library at 444-3064.

Before sending your draft request, please make sure that all essential information for the drafter is included.

- (1) a specific description of the request
- (2) a list of contact persons and phone numbers
- (3) authorization to contact others where necessary
- (4) your signature

The Legislative Council FAX Phone No. is (406) 444-3036.

### *Annotations*

The third of four installments of annotation updates are due to be shipped by the printer the last week of September. The final installment of annotation updates will be sent to subscribers later this fall.

### *Welfare Referendum Litigation*

Final briefs have been filed in the Supreme Court in the challenge to C18, the welfare referendum. The Legislative Council has continued its participation as an amicus curiae.

### *Legal Memoranda*

Legal memoranda prepared during the past month by the Legislative Council Legal Division staff include:

- Legality of General Fund Budget Amendment
- Constitutionality of Registration of Sex Offenders

- Approved a resolution urging that the 51st Legislature and the Coal Board take necessary action to allow earliest possible completion of Highway 314 in Big Horn County and the Sarpy Creek Road in Treasure County;
- Approved drafting of a resolution urging the 51st Legislature to assure funding for the Coal Board to support the activities of the Eastern Coal Counties Task Force and the water monitoring project being conducted in the coal area by the Montana Bureau of Mines;
- Approved for introduction and recommended passage of draft bills clarifying the rate of severance tax on certain coal and providing for uniform taxation of coal royalties, both of which had been requested by the Montana Coal Council;
- Requested drafting for consideration at the next meeting a resolution to the 51st Legislature stating the Subcommittee's conviction that the needs of the coal impact area and the Coal Board's priorities there should be reflected in any legislation on infrastructure improvements and that in any program addressing this subject the Coal Board should have priority consideration because of the expertise it has developed in impact mitigation;
- Endorsed the concept of statewide library services expressed in HB 603 of the 1987 session without committing funding for the program;
- Requested drafting for consideration at the next meeting a resolution to the 51st Legislature to face the challenge of acid rain legislation, both to promote new mines and coal production in Montana and to make Montana's coal acceptable on a nationwide sales/purchase basis, to promote the development of clean coal technology, and to designate these subjects as high priorities for consideration of this Subcommittee during the 1989-91 interim; and
- Scheduled the final meeting of this interim for 1 p.m. Friday, Nov. 18, on the assumption that the pre-session caucus will be held on Nov. 19, with the date of the Subcommittee to be adjusted to accommodate a different caucus date if one is designated by leadership.

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## **Coal Tax Oversight Subcommittee**

### *Recommendations Adopted*

At its meeting in Billings on Sept. 21, the Coal Tax Oversight Subcommittee took these actions

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## **Revenue Oversight Committee**

### *Independent Appraisal Agency Considered*

At its meeting on Sept. 9, the Revenue Oversight Committee voted to ask the Lincoln Institute of Land Policy if it would conduct a study of the idea

of creating an independent agency to appraise all property in the state

### *Bill Draft Approved*

The Committee approved for introduction a bill drafted by its staff amending the law in regard to the beneficial use tax and protested taxes

### *Revenue Estimating Function*

The staff was directed to draft language for consideration for a possible change of statutes or joint rules to give the Committee authority during the interim to make revenue estimates and to continue that function through the legislative session

### *Date of Next Meeting Changed*

The next meeting of the Committee was postponed from Oct. 14 to Sunday and Monday Nov. 20 and 21, immediately following the pre-session caucuses. On Nov. 20, the Committee will hear a presentation by the Department of Revenue of its legislative package for the 51st Legislature

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## **Legislative Reorganization and Improvement Commission**

### *Legislative Management Committee Studied*

A proposal for a legislative management committee is being studied by a subcommittee of the Legislative Reorganization and Improvement Commission (LRIC), which was appointed by Chairman J.D. Lynch at the Aug. 19 meeting. The subcommittee met with legislative agency directors on Sept. 15 to discuss various proposals and was scheduled to report to LRIC on Sept. 30.

### *Public Hearing in Billings*

Eastern Montanans were given an opportunity to offer suggestions to LRIC at a public hearing in Billings on Sept. 30 at the Holiday Inn Billings Plaza beginning at 10 a.m.

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## **Joint Interim Subcommittee on Welfare**

### *Oct. 20 Is Tentative Meeting Date*

The Joint Interim Subcommittee on Welfare has tentatively scheduled its next meeting on Thursday, Oct. 20, beginning at 8:30 a.m., in the Old Supreme Court Chambers. At this meeting, the Subcommittee will consider draft bills and formu-

late its findings and final recommendations to the 1989 Legislature

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## **Joint Interim Subcommittee on Basic Education**

### *Joint Meeting Planned in November*

The Joint Interim Subcommittee on Basic Education, the K-12 Education Subcommittee of the Legislative Finance Committee, and the Board of Public Education are planning a joint meeting for mid-November to make the coordinated recommendations required by HJR 16. No specific date has been selected, but dates around caucus time have been considered to offer other legislators an opportunity to review the school funding issues that have been before those groups during the interim.

### *Documents Available*

The staffs of the HJR 16 groups can provide legislators with the working documents generated to date. This includes the cost studies of the K-12 Subcommittee, Legislative Council legal memos on legislative action related to the school funding lawsuit, the Board's accreditation standards proposed for rulemaking, summaries and minutes of meetings, and reports on student assessment, P.L. 874 funds, capital outlay funding, funding and defining basic education in other states, etc. Also available from the Council will be a frequently updated document that compares the various funding reform proposals as they are released for public consumption (the Governor's Advisory Council, OPI suggestions, etc.).

### *Accreditation Standards Hearings*

The Board of Public Education's public hearings on proposed accreditation standards will be held in Billings and Helena. On Wednesday, Nov. 2, the Board will hear testimony at Billings Skyview High School auditorium from 2 to 5 p.m. and from 7 p.m. until conclusion. The same schedule will prevail at the Highway Department auditorium in Helena on Thursday, Nov. 3. Written testimony, which will be considered part of the public record, should be submitted to the Board's office by Nov. 10. The Board noticed the proposed accreditation standards for hearing at its meeting on Sept. 15. In December, the Board may make amendments in light of the November testimony and then will vote on whether to adopt and place the proposed standards in the Administrative Rules of Montana.

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## Environmental Quality Council

### *Forest Practices Study Findings Reviewed*

The Environmental Quality Council reviewed preliminary findings of the HJR 49 Forest Practices Study and discussed potential program options for the control of nonpoint source pollution from forestry activities on Sept. 28. The discussion focused on the results of summer field audits of timber sales in various areas of the state, responses to a questionnaire requesting information about examples of appropriate and inappropriate forest practices, and an update of progress made by the best management practices technical committee. During an afternoon tour of the Boles Creek drainage of Placid Lake, forest practices in the area south of Seeley Lake were reviewed.

### *Tentative Plans for Future Meetings*

Future meetings of EQC are tentatively scheduled for Oct. 27-28 and Dec. 9 to conclude interim projects on the Montana Environmental Policy Act, hazardous waste management, the programmatic MEPA review of oil and gas development, groundwater protection, pesticides, and HJR 49, as well as other pre-session proposals. The discussion on Oct. 27 concerning groundwater protection will include a review of the state's groundwater resources. Dr. Jack Moore, deputy administrator, Environmental Protection Agency, will discuss federal groundwater protection initiatives and legislative proposals being considered by Congress. The groundwater session will conclude with a panel discussion of groundwater contamination problems in Montana and future program needs.

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## Water Policy Committee

### *Meeting Planned Oct. 7*

The next meeting of the Water Policy Committee is set for Friday, Oct. 7, in Room 104 of the Capitol. Jack Ross, consultant for the committee, will discuss his firm's final report on the water rights adjudication process. The report will also be presented at public meetings in Billings and Helena on Nov. 9 and 10, respectively. At the Oct. 7 meeting, the committee will also discuss drought mitigation, water transfer, water research, and water data management. A panel of state officials and water users will discuss drought mitigation efforts and future management needs, including possible legislation. The committee will review options

for facilitating water transfers, including possible legislation.

### *Meetings to Finalize Recommendations*

The Water Policy Committee will meet Nov. 11 and Dec. 2 in Helena to finalize its recommendations to the 1989 Legislature.

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## Legislative Audit Committee

### *Reports Reviewed Sept. 16*

The Legislative Audit Committee met Sept. 16, when these reports were reviewed and released:

- Financial-Compliance Audits
  - Federal Single Audit
  - Guaranteed Student Loan Program
- Performance Audits

Weights and Measures, Department of Commerce

Forensic Science, Department of Justice

Copies of the reports are available upon request from the Legislative Auditor's Office, Room 135, State Capitol, Helena MT 59620.

The Federal Single Audit report includes federal grant schedules. Federal grant information or grant schedules are available from the Legislative Auditor by agencies on request.

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## Committee on Indian Affairs

### *Meeting Cancelled*

The meeting of the Committee on Indian Affairs scheduled for Saturday, Oct. 1, has been cancelled at the request of the chairman. The meeting will be rescheduled for November. The new meeting date will be announced as soon as it has been set.

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## Western States Legislative Forestry Task Force

### *Current Forestry Issues Addressed*

At its fall meeting in Lewiston, Idaho, the Western States Legislative Forestry Task Force:

- urged Congress to direct the Forest Service to limit spotted owl habitat timber set-asides to the present level until essential research is completed.

- urged presidential candidates to consider that any moratorium on old growth timber harvesting is unnecessary and could be disastrous to the economies of western timber states.
- urged the Forest Service to seek creative means to enhance of salvage timber killed in the 1987 Oregon "Silver fire."
- commended truckers for focusing public attention on the need for salvaging fire-killed timber.
- urged Montana's congressional delegation to accept Forest Service recommended wilderness acreage limits of 900,000 acres in the pending wilderness legislation.
- urged federal, state and local agencies to seek ways to develop common wildfire precautionary measures, and
- supported the essential need for prescribed fire as a vital forestry practice and supported review by a Presidential Fire Policy Committee of the prescribed fire policies of the Park Service and the Forest Service

### *Next Meeting in Victoria*

The next meeting of the Task Force will be in Victoria, B. C., in December.

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## **Legislative Finance Committee**

The Legislative Finance Committee met September 16 and 17 in Helena. The committee heard several staff reports and took committee action. The major items addressed by the committee and its actions are discussed briefly in the following sections.

### *Fiscal 1988 General Fund Revenue and Ending Fund Balance*

For the fiscal year ended June 30, 1988, the general fund received \$391.9 million of revenue, \$22.4 million more than the LFA forecast in January. Collections of individual income taxes deposited in the general fund exceeded the forecast by \$17.6 million, apparently a result of the gain from federal tax reform being higher than originally anticipated. Revenue from the coal severance tax was \$2.6 million more than forecast as higher production and lump-sum payments added to collections. On the down side, both corporation license taxes and liquor profits were less than expected.

The general fund ended fiscal 1988 with an unreserved balance of \$39.5 million, compared with a balance of \$10.6 million at the beginning of the year. During fiscal 1988, general fund revenue exceeded expenditures by \$21.0 million, the first such excess to occur since fiscal 1981.

### *Year-End GAAP Adjustments*

In 1985, the Legislature mandated that the state's accounting records be maintained on a basis consistent with generally accepted accounting principles (GAAP). Considering the three years since the GAAP requirement became law, there is no evidence that the number of general fund errors in the accounting system discovered after the close of the fiscal year is declining. Corrections of errors are difficult or impossible to trace. Although it is charged with administering the accounting system, the Department of Administration has no process in place internally for insuring that errors are corrected in the year of their discovery. In fiscal 1988, for example, the Department of Revenue determined that it had distributed fiscal 1987 individual income tax collections incorrectly. The redistribution of revenue sent \$3.6 million to the school foundation program, which should have caused a reversion of that amount of general fund in fiscal 1988. Failure to transfer the \$3.6 million to the general fund was not discovered and corrected until fiscal 1989, resulting in an understatement of the general fund balance in the interim.

As a result of the report, the Department of Administration was asked to report at the next meeting of Legislative Finance Committee on procedures for insuring that adjustments made in preparing the financial statement to bring the Statewide Budgeting and Accounting System (SBAS) into conformance with GAAP are recorded in SBAS.

### *Inter-Entity Loans*

At the request of the Legislative Finance Committee, a follow-up report concerning inter-entity loans was given that discussed issues raised in the June report and the Department of Administration's response to each. All of the issues involved loans made to university units. Therefore, the committee requested the Department of Administration to work with the university units and the legislative staff and report to the committee in November on any statute change the department would recommend and provide an analysis that shows how the proposed legislation maintains the Legislature's intent of prudent financial controls.

### *Department of Administration Statutory Responsibilities*

Staff from the Legislative Auditor's Office and the Office of the Legislative Fiscal Analyst presented a report to a joint meeting of the Legislative Audit Committee and the Legislative Finance Committee. This report addressed eight issues concerning the Department of Administration's compliance with state law and areas where legislation could be enacted to clarify existing law. These were similar issues that had been addressed in both legislative audits and fiscal analyst's

reports. The two primary compliance issues identified relate to negative appropriations and the spending of non-general fund money first

### *Proprietary Fund Budgeting*

The Legislative Finance Committee was updated on the progress of implementing proprietary fund budgeting goals established by the committee in prior years. Proprietary funds are used to account for government activities that are similar to business enterprises in the private sector. These programs serve the general public and other government agencies. The overall purpose of the goals is to ensure that government goods and services are provided in the most cost effective manner.

There has been limited progress in implementing the goals, however, a major effort has been initiated to collect detailed service, cost, and rate information needed to further goal implementation. This information will be analyzed this fall. Significant issues resulting from the analysis will be included in the 1989 biennium *Budget Analysis* and presented to the Joint Appropriations General Government and Highways Subcommittee.

### *Salary Increases in Exempt Positions*

In response to a request by the Legislative Finance Committee to review compliance with the pay freeze in exempt positions, the LFA presented a report on salary increases in the legislative and judicial branches and for personal staffs of elected officials. There were salary increases for 52 of the 219.7 exempt positions. There were 37 promotions, 8 upgraded positions, 4 increases to bring employees to the 1987 matrix, and 3 increases due to completion of probation periods.

### *De-Earmarking Revenue*

The Department of Administration presented a report to the Legislative Finance Committee on the results of its examination of all state and other special revenue and proprietary accounting entities as required by statute. The report cited numerous deficiencies in the existing accounting entities, including noncompliance with statute and cases where accounts could be modified, combined, reclassified, or eliminated to improve the system. The department provided nine recommendations to the committee for dealing with the deficiencies. The LFA responded in a separate report that some of the Department of Administration recommendations did not provide comprehensive solutions to the deficiencies as required in statute. The committee appointed a subcommittee to work with the Department of Administration to complete the original objectives of: 1) transferring unobligated balance to the general fund where possible; and 2) determining if an accounting should continue to exist or be modified.

### *Medicaid Data Base*

A Medicaid data base has been developed by staff of the Fiscal Analyst Office at the request of the Finance Committee. The data base contains considerable information about the characteristics of recipients of Medicaid services during the four fiscal years 1984 through 1987. The preliminary analysis presented to the Committee showed that Medicaid funds increased from \$240 million expended during the 1987 biennium to an appropriated level of \$302 million in the 1989 biennium, or an increase of \$62 million. In addition, the report identified a number of areas that the Legislature may wish to address during the next legislative session to contain the growth of Medicaid costs including: information on the amount of Medicaid funds expended for unwed mothers where no paternity has been established; variations in the Medicaid utilization patterns according to the eligibility of recipients; patterns of service utilization according to age groups; and changes in the rate of collections of third-party payments.

As well as providing an historical perspective on why Medicaid expenditures have increased, the data base will be used to improve the accuracy of future Medicaid projections during the budgeting process.

### *Lottery*

A report on the fiscal status of the Montana Lottery showed how lottery revenue is allocated, explained how the lottery has adjusted their spending plans to accommodate lower than anticipated sales, and discussed the lottery's plans to develop an on-line lottery system in Montana. The analyst's report also showed that statutory appropriation of the lottery's operating expenses, combined with ambiguities in the statutes, resulted in the lottery spending in excess of authorized appropriation levels. The lottery director told the Committee that the Lottery Commission plans to recommend legislation eliminating the statutory appropriation authority for lottery operating expenses.

### *Budget Amendment Fire Costs*

The Department of State Lands had a budget amendment that would take \$11.5 million of general fund to pay fire suppression costs. The budget amendment law states that no budget amendment may be approved by the approving authority that contains any significant ascertainable commitment for any present or future increased general fund support. The Legislative Finance Committee did not have enough votes to pass a motion that the budget amendment for fire costs complied with the criteria of the budget amendment law, even considering the budget amendment law in context of the emergency authority of the Governor. The committee did go



on record to firmly support the Governor in his efforts to pay the fire bill by any legal means

On Monday following the meeting the Governor declared a disaster and approved the budget amendment. A legal memorandum prepared by the Legislative Council as to the legality of a budget amendment for the Department of State Lands to finance the costs of fire suppression stated

The conclusion that I reach from the statutes and case law referred to is that there is no appropriation made by law which authorizes the governor to use general fund money to meet current fire suppression costs other than the \$1 million statutory appropriation contained in 10-3-312, MCA. The budget amendment law specifically excludes general fund money from its operation. There is no appropriation bill which authorizes the expenditures. The Finance Committee has no authority to sanction an action which must be performed by the legislature as a whole.

### *University Funding Study*

The University Funding Study Committee met on September 14, 1988. Representative Peck presented a report on the activities and recommendations from the funding study subcommittee, which included discussion of the limitations of peer data and a preliminary list of potential data elements. His report stated that the subcommittee recommended three areas be examined: 1) methods for determining the total university budget, 2) methods for comparisons to other in-

stitutions, and 3) methods to allocate funds within the system.

A Review of Updated University Formula Factors' was presented by the staff of the Legislative Fiscal Analyst's office, which examined the formula factors that were based on Montana and peer data. Following up on some subcommittee work, Jack Noble, Deputy Commissioner of Higher Education, prepared a draft of a proposed formula appropriation approach that would involve two parts: comparative data elements and specific formula data elements.

The University Funding Study Committee directed the subcommittee and staff to continue working on alternative formula funding methods.


### *K-12 Education Subcommittee*

The subcommittee met September 17th following the Legislative Finance Committee meeting to take action on: 1) teacher salaries to be used in determining cost of compliance with accreditation standards; 2) inclusion of comprehensive insurance costs in the general fund and equalization plan; and 3) inclusion of retirement costs in the general fund and equalization plan. A supplemental report on determining the cost of compliance with proposed accreditation standards through the use of a statewide teacher matrix was presented by staff. The subcommittee voted to calculate teacher salary costs of complying with standards based on the percentage of teachers employed by the district with over three years or seven years of experience.

The committee voted to include comprehensive insurance and include retirement costs in the general fund and equalization plan.

# LEGISLATIVE INTERIM CALENDAR

OCTOBER

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
						1
2	3	4	5	6	7 EQC - Water Policy Rm. 104	8 House Rules Comm. - Rm. 104
9	10 COLUMBUS DAY	11	12	13	14	15
16	17	18	19	20 Subcommittee on Welfare Rm. 325 -tentative-	21	22
23	24	25	26	27 -Environmental Tentative	28 Quality Council-	29
30	31 					

\*ALL MEETINGS ARE SUBJECT TO CHANGE

# LEGISLATIVE INTERIM CALENDAR

NOVEMBER

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
	1	2	3	4	5	
6	7	8 ELECTION DAY	9 ----- Water Public Billings	10 Policy ----- Hearings Helena	11 VETERANS DAY Water Policy Comm. - Rm. 104	12
13	14 Legislative Council Rm. 104	15	16	17	18 Coal Tax Over- sight Comm. Rm. 104	19 PRE-SESSION CAUCUS
20 --- Revenue Comm.	21 Oversight --- Rm. 104	22	23	24 THANKSGIVING	25 HOLIDAY	26
27	28	29	30			

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